

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

JUDGES CHAMBERS  
ALBERT J. STIFTEL  
PRESIDENT JUDGE

ADMINISTRATIVE DIRECTIVE  
of the  
President Judge of the  
Superior Court of the State of Delaware

PUBLIC BUILDING  
WILMINGTON, DE 1980

#90-3

RESCHEDULING CRIMINAL CASES

This 21st day of March, 1990:

Until further notice, the following procedure will apply to the rescheduling of trial dates in criminal cases:

1. All requests for continuances must be made in writing and shall be made as early as possible.
2. Where possible, a continuance request shall be made by the attorney requesting the continuance. Requests shall be made by letter. Copies of the letter must be sent to opposing counsel (or pro se defendants), Prothonotary and Case Scheduling Office [CSO]. Defense counsel should send copies of such requests to their clients and note that on the letter. If time does not permit a letter, counsel should use the Court's continuance form (sample attached).
3. All continuance requests shall be initially directed to the Criminal Office Judge unless the case is specially assigned. Clear and specific reasons for the continuance must be given along with the position of opposing counsel (or of pro se defendants). When the request is made because of an appearance in another court, the name of the case, the court, the time of appearance, the date the other case was scheduled and, if known, the judge must be given.

4. Only a judge is permitted to continue a case and only for good cause.

5. When a continuance is sought outside of court (other than at the calendar review) prior to the date a case is set for trial, the attorneys must establish a proposed new trial date with CSO and that date must appear in the continuance request. If the continuance is granted, the tentative date agreed upon shall become the firm trial date unless the Court orders otherwise. Attorneys are responsible for notifying their clients and witnesses of the new date once the continuance has been granted.

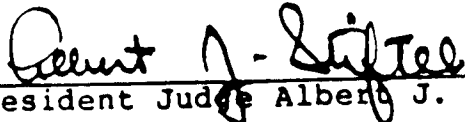
6. Where a continuance is unopposed, counsel cannot assume it will be granted. Counsel, witnesses and clients are not excused from their obligation to appear until a judge has continued the case.

7. Case review shall normally be held only one time (whether or not a plea results). Unusual circumstances may warrant a second case review (such as, recent discovery of other charges which counsel wants to include in the plea or incomplete discovery response with probability of completion in a brief period). However, the written continuance policy outlined herein applies to the rescheduling of case review.

8. If the continuance request is denied by the Criminal Office Judge on the day set for trial, the request, except where highly unusual or extreme circumstances warrant, should not be renewed before the trial judge, unless trial has started. The request should be brought back for presentation to the Criminal Office Judge.

9. If the continuance request is made on the day set for trial (or case review) and is granted, both counsel should immediately consult with the CSO representative present in the courtroom with the Criminal Office Judge to obtain a new trial date. The burden of selecting a new trial date which does not conflict with other matters is on counsel and no one else. It is part of counsel's responsibilities in this regard to check first with witness' schedules, if necessary, and, in the case of private counsel, to check their schedules in their offices before the new trial date is set.

10. If a continuance is sought in court on the day of trial (or case review) and is granted, once counsel have established with CSO the new date, that information must be given to (1) calendar deputy attorney general, (2) the defendant(s) and (3) witnesses (preferably while they are still in the Court House or when they are called about the continuance). Prior to being excused, any non-incarcerated defendants shall fill out and sign a Notice to Appear Form. Once the calendar deputy has been advised of the new date and the defendant has signed the appearance form, counsel, defendant(s) and witnesses may be excused. The prosecutor and prosecution witnesses do not have to wait until the defendant signs the form. The calendar deputy shall inform the Court of any new date at an appropriate time during the review of the calendar.

  
President Judge Albert J. Stifftel

SUPERIOR COURT OF DELAWARE

TRIAL CONTINUANCE REQUEST

CASE: STATE V. \_\_\_\_\_

CR.A.NO. \_\_\_\_\_

ID.NO. \_\_\_\_\_

SCHEDULED DATE: \_\_\_\_\_ NEW DATE: \_\_\_\_\_

TRIAL ( ) CASE REVIEW ( )

REQUEST BY:

STATE ( ) DEPUTY: \_\_\_\_\_

DEFENSE ( ) ATTORNEY: \_\_\_\_\_

REASON(S): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OPPOSING COUNSEL: OPPOSES ( )

DOES NOT OPPOSE ( )

COURT ACTION: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

CONTINUANCE CHARGED TO: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
J.